

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 801**

Introduced by Appropriations Committee: Wehrbein, 2, Chairperson;  
Beutler, 28; Cudaback, 36; Engel, 17; Kruse, 13; D.  
Pederson, 42; Price, 26; Synowiecki, 7; Thompson, 14

Read first time February 28, 2003

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend  
2 sections 53-119.01, 53-121, 53-123.05, 53-123.14, 53-135,  
3 53-135.01, and 53-149, Reissue Revised Statutes of  
4 Nebraska, and sections 53-123.12, 53-124, 53-124.11,  
5 53-124.12, 53-130, 53-131, 53-132, and 53-138.01, Revised  
6 Statutes Supplement, 2002; to provide for biennial  
7 licenses and fees; to harmonize provisions; to provide an  
8 operative date; to repeal the original sections; and to  
9 declare an emergency.  
10 Be it enacted by the people of the State of Nebraska,

1                   Section 1.    Section 53-119.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3                   53-119.01.   The Nebraska Liquor Control Commission may  
4 request the State Fire Marshal to inspect for fire safety pursuant  
5 to section 81-502 any premises for which ~~an annually~~ a biennially  
6 renewable retail or bottle club license as defined in section  
7 53-124, or renewal of such a license, is sought.   The State Fire  
8 Marshal shall assess a fee for such inspection pursuant to section  
9 81-505.01 and payable by the licensee or applicant for a license.  
10 The authority to make such investigations may be delegated to  
11 qualified local fire prevention personnel pursuant to section  
12 81-502.

13                  Sec. 2.    Section 53-121, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15                  53-121.   The question of licensing the sale of alcoholic  
16 ~~liquors~~ liquor, other than beer, by the package may be submitted at  
17 the general municipal election every two years after 1937 in ~~such~~  
18 cities or villages.   The proposal shall be submitted and voted upon  
19 in the same manner as the submission of the proposal to sell such  
20 alcoholic ~~liquors~~ liquor by the drink as provided in section  
21 53-122.   The proposition shall be stated as follows:

22                  Shall the sale of alcoholic ~~liquors~~ liquor by the  
23 package, other than beer, be licensed in (here insert the name of  
24 the city or village)?

25                  ..... For license to sell by the package.

26                  ..... Against license to sell by the package.

27                  The majority of those voting on the question shall be  
28 mandatory upon the commission insofar as licensing the sale of such

1 ~~liquors~~ liquor therein by the package is concerned. In the absence  
2 of any vote on the question of licensing the sale of such ~~liquors~~  
3 liquor in such cities or villages by the package, the commission  
4 shall continue to issue licenses to sell the same by the package  
5 therein for periods of ~~one year~~ two years subject to all the terms  
6 and conditions of the Nebraska Liquor Control Act.

7           Sec. 3. Section 53-123.05, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           53-123.05. (1) The commission may issue a license to any  
10 airline company, dining car company, sleeping car company, or  
11 railroad company operating in this state which authorizes the  
12 holder thereof to keep for sale and to sell or dispense alcoholic  
13 liquor for consumption in its airplanes, dining cars, sleeping  
14 cars, buffet cars, observation cars, and any other cars used for  
15 transportation or accommodation of passengers. Each such company  
16 shall keep a duplicate of such license posted in each car or  
17 airplane where such alcoholic liquor is served.

18           (2) Every such license shall expire biennially on April  
19 30. ~~of each year.~~ Each such license shall be good throughout this  
20 state as a state license. Only one such license shall be required  
21 for all cars or airplanes operated in this state by the same owner.  
22 No further license shall be required or tax levied by any county,  
23 city, or village for the privilege of selling or dispensing  
24 alcoholic liquor for consumption in such cars or airplanes.  
25 Nothing in the Nebraska Liquor Control Act shall apply to or affect  
26 the right of holders of such licenses to transport within this  
27 state or to import into this state alcoholic liquor to be kept for  
28 dispensing or sale or to be sold while actually en route in the

1 cars or airplanes of such licensees.

2 Sec. 4. Section 53-123.12, Revised Statutes Supplement,  
3 2002, is amended to read:

4 53-123.12. Any person desiring to obtain a new license  
5 to operate a farm winery shall:

6 (1) File an application with the commission in triplicate  
7 original upon such forms as the commission from time to time  
8 prescribes;

9 (2) Pay the license fee to the commission under  
10 subdivision (2) of section 53-124, which fee shall be returned to  
11 the applicant if the application is denied; and

12 (3) Pay the state registration fee to the commission in  
13 the sum of ~~forty-five~~ ninety dollars.

14 License fees and registration fees may be paid to the  
15 commission by certified or cashier's check of a bank within this  
16 state, personal or business check, United States post office money  
17 order, or cash in the full amount of such fees. The commission  
18 shall then notify, by registered or certified mail marked return  
19 receipt requested with postage prepaid, the municipal clerk of the  
20 city or incorporated village where such license is sought or, if  
21 the license is not sought within a city or incorporated village,  
22 the county clerk of the county where such license is sought of the  
23 receipt of the application and shall enclose with such notice one  
24 copy of the application. No such license shall then be issued by  
25 the commission until the expiration of at least forty-five days  
26 from the date of mailing such application by the commission.  
27 Within thirty-five days from the date of receipt of such  
28 application from the commission, the local governing bodies of

1 nearby cities or villages or the county may make and submit to the  
2 commission recommendations relative to the granting of or refusal  
3 to grant such license to the applicant.

4           Sec. 5. Section 53-123.14, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           53-123.14. Any person who operates a craft brewery shall  
7 obtain a license pursuant to the Nebraska Liquor Control Act. A  
8 license to operate a craft brewery shall permit a brewpub or  
9 microbrewery to produce on the craft brewery premises a maximum of  
10 ten thousand barrels of beer per year. A craft brewery may also  
11 sell to beer wholesalers for sale and distribution to licensed  
12 retailers. A craft brewery license issued pursuant to this section  
13 shall be the only license required by the Nebraska Liquor Control  
14 Act for the manufacture and retail sale of beer for consumption on  
15 or off the licensed premises, except that the sale of any beer  
16 other than beer manufactured by the craft brewery licensee, wine,  
17 or alcoholic liquor by the drink for consumption on the craft  
18 brewery premises shall require the appropriate retail license. Any  
19 license held by the operator of a craft brewery shall be subject to  
20 the act. A holder of a craft brewery license may obtain ~~an annual~~  
21 a catering license pursuant to section 53-124.12 or a special  
22 designated license pursuant to section 53-124.11.

23           Sec. 6. Section 53-124, Revised Statutes Supplement,  
24 2002, is amended to read:

25           53-124. At the time application is made to the  
26 commission for a license of any type, the applicant shall pay the  
27 fee provided in this section and, if the applicant is an  
28 individual, provide the applicant's social security number. The

1 fees for ~~annual~~ biennial licenses finally issued by the commission  
 2 shall be as follows:

3 ~~(1) For a license to manufacture alcohol and~~  
 4 ~~spirits ..... \$1,000.00;~~

5 (1) For a license to manufacture alcohol and  
 6 spirits ..... \$2,000.00;

7 (2) For a license to manufacture beer and wine or to  
 8 operate a farm winery or craft brewery:

9 (a) Manufacture of beer, excluding beer produced by a  
 10 craft brewery:

11 ~~(i) 1 to 100 barrel daily capacity,~~  
 12 ~~or any part thereof ..... \$100.00~~

13 ~~(ii) 100 to 150 barrel daily~~  
 14 ~~capacity ..... 200.00~~

15 ~~(iii) 150 to 200 barrel daily~~  
 16 ~~capacity ..... 350.00~~

17 ~~(iv) 200 to 300 barrel daily~~  
 18 ~~capacity ..... 500.00~~

19 ~~(v) 300 to 400 barrel daily~~  
 20 ~~capacity ..... 650.00~~

21 ~~(vi) 400 to 500 barrel daily~~  
 22 ~~capacity ..... 700.00~~

23 ~~(vii) 500 barrel daily capacity,~~  
 24 ~~or more ..... 800.00;~~

25 ~~(b) Operation of a craft brewery ..... \$250.00;~~

26 ~~(c) Manufacture of wines ..... \$250.00;~~

27 ~~(d) Operation of a farm winery ..... \$250.00.~~

28 (i) 1 to 100 barrel daily capacity,

1	<u>or any part thereof .....</u>	<u>\$200.00</u>
2	<u>(ii) 100 to 150 barrel daily</u>	
3	<u>capacity .....</u>	<u>400.00</u>
4	<u>(iii) 150 to 200 barrel daily</u>	
5	<u>capacity .....</u>	<u>700.00</u>
6	<u>(iv) 200 to 300 barrel daily</u>	
7	<u>capacity .....</u>	<u>1,000.00</u>
8	<u>(v) 300 to 400 barrel daily</u>	
9	<u>capacity .....</u>	<u>1,300.00</u>
10	<u>(vi) 400 to 500 barrel daily</u>	
11	<u>capacity .....</u>	<u>1,400.00</u>
12	<u>(vii) 500 barrel daily capacity,</u>	
13	<u>or more .....</u>	<u>1,600.00;</u>
14	<u>(b) Operation of a craft brewery .....</u>	<u>\$500.00;</u>
15	<u>(c) Manufacture of wines .....</u>	<u>\$500.00;</u>
16	<u>(d) Operation of a farm winery .....</u>	<u>\$500.00.</u>

17 For purposes of subdivision (2)(a) of this section, daily capacity  
 18 ~~shall mean~~ means the average daily barrel production for the  
 19 previous twelve months of manufacturing operation. If no such  
 20 basis for comparison exists, the manufacturing licensee shall pay  
 21 in advance for the first ~~year's~~ two years' operation a fee of ~~five~~  
 22 ~~hundred one thousand~~ dollars;

23 (3) Alcoholic liquor wholesale license, for the first and  
 24 each additional wholesale place of business operated in this state  
 25 by the same licensee and wholesaling alcoholic liquor, except beer  
 26 ~~and wines produced from farm wineries .....~~ ~~\$500.00;~~  
 27 and wines produced from farm wineries ..... \$1,000.00;

28 (4) Beer wholesale license, for the first and each

1 additional wholesale place of business operated in this state by  
2 ~~the same licensee and wholesaling beer only~~ ..... ~~\$250.00;~~  
3 the same licensee and wholesaling beer only ..... \$500.00;

4 (5) For a retail license:

5 (a) Class A: Beer only except for craft breweries, inside  
6 the corporate limits of cities and villages, for consumption on the  
7 premises, the sum of ~~ten~~ twenty dollars in villages having a  
8 population of five hundred inhabitants or less; ~~twenty-five~~ fifty  
9 dollars in villages or cities having a population of more than five  
10 hundred inhabitants and not more than twenty-five hundred  
11 inhabitants; ~~fifty~~ one hundred dollars in cities having a  
12 population of more than twenty-five hundred inhabitants and less  
13 than ten thousand inhabitants; and ~~one~~ two hundred dollars in  
14 cities having a population of ten thousand inhabitants or more;

15 (b) Class B: Beer only except for craft breweries, for  
16 consumption off the premises, sales in the original packages only,  
17 the sum of ~~twenty-five~~ fifty dollars;

18 (c) Class C: Alcoholic liquor inside the corporate limits  
19 of cities and villages, for consumption on the premises and off the  
20 premises, sales in original packages only, the sum of ~~two hundred~~  
21 ~~fifty~~ five hundred dollars, except for farm winery or craft brewery  
22 sales outlets. If a Class C license is held by a nonprofit  
23 corporation, it shall be restricted to consumption on the premises  
24 only. A Class C license may have a sampling designation  
25 restricting consumption on the premises to sampling, but such  
26 designation shall not affect sales for consumption off the premises  
27 under such license;

28 (d) Class D: Alcoholic liquor, including beer, inside the



1 corporate limits of cities and villages, for consumption off the  
2 premises, sales in the original packages only, except as provided  
3 in subsection (2) of section 53-123.04, the sum of ~~one hundred~~  
4 ~~fifty~~ three hundred dollars, except for farm winery or craft  
5 brewery sales outlets;

6 (e) Class D-1: Alcoholic liquor, including beer, outside  
7 the corporate limits but within the extraterritorial zoning  
8 jurisdiction of cities and incorporated villages, for consumption  
9 off the premises, sales in the original packages only, except as  
10 provided in subsection (2) of section 53-123.04, the sum of ~~one~~  
11 ~~hundred fifty~~ three hundred dollars, except for farm winery or  
12 craft brewery sales outlets;

13 (f) Class E: Alcoholic liquor outside the corporate  
14 limits of cities and villages in any county in which there is no  
15 incorporated city or village or in which the county seat is not  
16 located in an incorporated city or village, for consumption off the  
17 premises, sales in the original packages only, not less than ~~one~~  
18 ~~hundred fifty~~ three hundred dollars for each license, except for  
19 farm winery or craft brewery sales outlets;

20 (g) Class F: Beer only except for craft breweries,  
21 outside the corporate limits of cities and villages, for  
22 consumption on the premises, not less than ~~twenty-five~~ fifty  
23 dollars for each license, the precise amount in each case to be  
24 such sum as equals the amount of license fee fixed in this section  
25 plus the occupation tax fixed by ordinance, if any, in the nearest  
26 incorporated city or village in the same county;

27 (h) Class H: Alcoholic liquor, including beer, issued to  
28 a nonprofit corporation, for consumption on the premises:

1           (i) Inside the corporate limits of cities and villages,  
2 regardless of alcoholic content, the sum of ~~twenty~~ forty dollars in  
3 villages having a population of five hundred inhabitants or less;  
4 ~~fifty one hundred~~ dollars in villages or cities having a population  
5 of more than five hundred inhabitants and not more than twenty-five  
6 hundred inhabitants; ~~one~~ two hundred dollars in cities having a  
7 population of more than twenty-five hundred inhabitants and less  
8 than ten thousand inhabitants; and ~~two~~ four hundred dollars in  
9 cities having a population of ten thousand inhabitants or more; and

10           (ii) Outside the corporate limits of cities and villages,  
11 not less than ~~two hundred fifty~~ five hundred dollars for each  
12 license, the precise amount in each case to be such sum as equals  
13 the amount of license fee fixed in this section plus the occupation  
14 tax fixed by ordinance, if any, in the nearest incorporated city or  
15 village in the same county. If the incorporated city or village  
16 does not have an occupation tax for nonprofit corporation licenses,  
17 then the licensee shall pay an amount equal to a Class C license  
18 occupation tax for such city or village.

19           A Class H license shall not be issued to any corporation  
20 authorized by law to receive a Class C license unless the nonprofit  
21 corporation is open for sale of alcoholic liquor, including beer,  
22 for consumption on the premises not more than two days in any week;

23           (i) Class I: Alcoholic liquor, inside the corporate  
24 limits of cities and villages, for consumption on the premises, the  
25 sum of ~~two~~ four hundred dollars, except for farm winery or craft  
26 brewery sales outlets;

27           (j) Class J: Beer and wine only except for craft  
28 breweries, inside the corporate limits of cities and villages, for

1 consumption on the premises of restaurants only, the sum of ~~fifty~~  
 2 one hundred dollars in villages having a population of five hundred  
 3 inhabitants or less; ~~seventy-five~~ one hundred fifty dollars in  
 4 villages or cities having a population of more than five hundred  
 5 inhabitants and not more than twenty-five hundred inhabitants; ~~one~~  
 6 ~~hundred twenty-five~~ two hundred fifty dollars in cities having a  
 7 population of more than twenty-five hundred inhabitants and less  
 8 than ten thousand inhabitants; and ~~two hundred twenty-five~~ four  
 9 hundred fifty dollars in cities having a population of ten thousand  
 10 inhabitants or more; and

11 (k) Class K: Wine only, for consumption off the premises,  
 12 sales in original packages only, except as provided in subsection  
 13 (2) of section 53-123.04, the sum of ~~one hundred twenty-five~~ two  
 14 hundred fifty dollars.

15 All applicable license fees shall be paid by the  
 16 applicant or licensee directly to the city or village treasurer in  
 17 the case of premises located inside the corporate limits of a city  
 18 or village and directly to the county treasurer in the case of  
 19 premises located outside the corporate limits of a city or village,  
 20 except that the fee for a Class D or Class D-1 license shall be  
 21 paid directly to the commission;

22 ~~(6) For a railroad license ..... \$100.00~~  
 23 ~~and \$1.00 for each duplicate;~~

24 ~~(7) For a boat license ..... \$50.00;~~

25 ~~(8) For a nonbeverage user's license:~~

26 Class 1 ..... \$5.00

27 Class 2 ..... 25.00

28 Class 3 ..... 50.00

1                   Class 4 ..... 100.00

2                   Class 5 ..... 250.00;

3                   (6) For a railroad license ..... \$200.00

4   and \$2.00 for each duplicate;

5                   (7) For a boat license ..... \$100.00;

6                   (8) For a nonbeverage user's license:

7                   Class 1 ..... \$10.00

8                   Class 2 ..... 50.00

9                   Class 3 ..... 100.00

10                  Class 4 ..... 200.00

11                  Class 5 ..... 500.00;

12                  (9) For a bottle club license, ~~two hundred fifty five~~

13   hundred dollars in any county having a population of less than five

14   thousand five hundred inhabitants and ~~five hundred~~ one thousand

15   dollars in any county having a population of five thousand five

16   hundred inhabitants or more. No such license shall be issued

17   within the corporate limits of any city or village when a license

18   as provided in subdivision (5) (c) of this section has been issued

19   in such city or village. The applicable fee shall be paid by the

20   applicant or licensee directly to the city or village treasurer in

21   the case of a bottle club license within the corporate limits of a

22   city or village and directly to the county treasurer in the case of

23   a bottle club license outside the limits of any city or village;

24                  ~~(10) For an airline license ..... \$100.00~~

25   and \$1.00 for each duplicate;

26                  ~~(11) For a shipping license, except a shipping license~~

27   issued pursuant to subsection (4) of

28   ~~section 53-123.15 ..... \$200.00;~~

1 ~~and~~

2 ~~(12) For a shipping license issued pursuant to~~  
 3 ~~subsection (4) of section 53-123.15 ..... \$500.00.~~

4 (10) For an airline license ..... \$200.00  
 5 and \$2.00 for each duplicate;

6 (11) For a shipping license, except a shipping license  
 7 issued pursuant to subsection (4) of  
 8 section 53-123.15 ..... \$400.00;

9 and

10 (12) For a shipping license issued pursuant to  
 11 subsection (4) of section 53-123.15 ..... \$1,000.00.

12 The license ~~year~~ term, unless otherwise provided in the  
 13 Nebraska Liquor Control Act, shall commence on May 1 ~~of each year~~  
 14 and shall end on the second following April 30, except that the  
 15 license year for a Class C license shall commence on November 1 ~~of~~  
 16 ~~each year~~ and shall end on the second following October 31. During  
 17 the license ~~year~~ term, no license shall be issued for a sum less  
 18 than the amount of the ~~annual~~ license fee as fixed in this section,  
 19 regardless of the time when the application for such license has  
 20 been made.

21 Sec. 7. Section 53-124.11, Revised Statutes Supplement,  
 22 2002, is amended to read:

23 53-124.11. (1) The commission may issue a special  
 24 designated license for sale or consumption of alcoholic liquor at a  
 25 designated location to a retail licensee, a craft brewery licensee,  
 26 a municipal corporation, a fine arts museum incorporated as a  
 27 nonprofit corporation, a religious nonprofit corporation which has  
 28 been exempted from the payment of federal income taxes, a political

1 organization which has been exempted from the payment of federal  
2 income taxes, or any other nonprofit corporation the purpose of  
3 which is fraternal, charitable, or public service and which has  
4 been exempted from the payment of federal income taxes, under  
5 conditions specified in this section. The applicant shall  
6 demonstrate meeting the requirements of this subsection.

7 (2) No retail licensee, craft brewery licensee,  
8 organization, or corporation enumerated in subsection (1) of this  
9 section may be issued a special designated license under this  
10 section for more than six calendar days in any one calendar year.  
11 Only one special designated license shall be required for any  
12 application for two or more consecutive days. This subsection  
13 shall not apply to any holder of a catering license.

14 (3) Except for any special designated license issued to a  
15 holder of a catering license, there shall be a fee of ~~forty~~ eighty  
16 dollars for each day identified in the special designated license.  
17 Such fee shall be submitted with the application for the special  
18 designated license, collected by the commission, and remitted to  
19 the State Treasurer for credit to the General Fund. The applicant  
20 shall be exempt from the provisions of the Nebraska Liquor Control  
21 Act requiring a registration fee and the provisions of the act  
22 requiring the expiration of forty-five days from the time the  
23 application is received by the commission prior to the issuance of  
24 a license, if granted by the commission. The retail licensees,  
25 craft brewery licensees, municipal corporations, organizations, and  
26 nonprofit corporations enumerated in subsection (1) of this section  
27 seeking a special designated license shall file an application on  
28 such forms as the commission may prescribe. Such forms shall

1 contain, along with other information as required by the  
2 commission, (a) the name of the applicant, (b) the premises for  
3 which a special designated license is requested, identified by  
4 street and number if practicable and, if not, by some other  
5 appropriate description which definitely locates the premises, (c)  
6 the name of the owner or lessee of the premises for which the  
7 special designated license is requested, (d) sufficient evidence  
8 that the holder of the special designated license, if issued, will  
9 carry on the activities and business authorized by the license for  
10 himself, herself, or itself and not as the agent of any other  
11 person, group, organization, or corporation, for profit or not for  
12 profit, (e) a statement of the type of activity to be carried on  
13 during the time period for which a special designated license is  
14 requested, and (f) sufficient evidence that the activity will be  
15 supervised by persons or managers who are agents of and directly  
16 responsible to the holder of the special designated license.

17 (4) No special designated license provided for by this  
18 section shall be issued by the commission without the approval of  
19 the local governing body. The local governing body may establish  
20 criteria for approving or denying a special designated license.  
21 The local governing body may designate an agent to determine  
22 whether a special designated license is to be approved or denied.  
23 Such agent shall follow criteria established by the local governing  
24 body in making his or her determination. The determination of the  
25 agent shall be considered the determination of the local governing  
26 body unless otherwise provided by the local governing body. For  
27 purposes of this section, the local governing body shall be the  
28 city or village within which the premises for which the special

1 designated license is requested are located or, if such premises  
2 are not within the corporate limits of a city or village, then the  
3 local governing body shall be the county within which the premises  
4 for which the special designated license is requested are located.

5 (5) If the applicant meets the requirements of this  
6 section, a special designated license shall be granted and issued  
7 by the commission for use by the holder of the special designated  
8 license. All statutory provisions and rules and regulations of the  
9 commission that apply to a retail licensee shall apply to the  
10 holder of a special designated license with the exception of such  
11 statutory provisions and rules and regulations of the commission so  
12 designated by the commission and stated upon the issued special  
13 designated license, except that the commission may not designate  
14 exemption of sections 53-180 to 53-180.07. The decision of the  
15 commission shall be final. If the applicant does not qualify for a  
16 special designated license, the application shall be denied by the  
17 commission.

18 (6) A special designated license issued by the commission  
19 shall be mailed or delivered to the city, village, or county clerk  
20 who shall deliver such license to the licensee upon receipt of any  
21 fee or tax imposed by such city, village, or county.

22 Sec. 8. Section 53-124.12, Revised Statutes Supplement,  
23 2002, is amended to read:

24 53-124.12. (1) The holder of a Class C, Class D, Class  
25 D-1, or Class I license issued under subdivision (5) of section  
26 53-124 or a craft brewery license may obtain ~~an annual~~ a biennial  
27 catering license as prescribed in this section. The catering  
28 license shall be issued for the same period and may be renewed in



1 the same manner as the Class C, Class D, Class D-1, or Class I  
2 license or craft brewery license.

3 (2) Any person desiring to obtain a catering license  
4 shall file with the commission:

5 (a) An application in triplicate original upon such forms  
6 as the commission prescribes; and

7 (b) A license fee of ~~seventy-five~~ one hundred fifty  
8 dollars payable to the commission, which fee shall be returned to  
9 the applicant if the application is denied.

10 (3) When an application for a catering license is filed,  
11 the commission shall notify, by registered or certified mail,  
12 return receipt requested with postage prepaid, (a) the clerk of the  
13 city or incorporated village in which such applicant is located,  
14 (b) if the applicant is the holder of a Class D-1 license, the  
15 clerk of the city or incorporated village outside of whose  
16 corporate limits but within whose extraterritorial zoning  
17 jurisdiction the applicant is located, or (c) if the applicant is  
18 not the holder of a Class D-1 license and is not located within a  
19 city or incorporated village, the county clerk of the county in  
20 which such applicant is located of the receipt of the application.  
21 The commission shall enclose with such notice one copy of the  
22 application. The local governing body and the commission shall  
23 process the application in the same manner as provided in section  
24 53-132.

25 (4) The local governing body with respect to catering  
26 licensees within its liquor license jurisdiction as provided in  
27 subsection (5) of this section may cancel a catering license for  
28 cause for the remainder of the period for which such catering

1 license is issued. Any person whose catering license is canceled  
2 may appeal to the district court of the county in which the local  
3 governing body is located.

4 (5) For purposes of this section, local governing body  
5 means (a) the governing body of the city or village in which the  
6 catering licensee is located, (b) if the licensee has a Class D-1  
7 license, the governing body of the city or incorporated village  
8 within whose zoning jurisdiction the licensee is located, or (c) if  
9 such licensee is not the holder of a Class D-1 license and is not  
10 located within a city or village, the governing body of the county  
11 in which such licensee is located.

12 (6) The local governing body may impose an occupation tax  
13 on the business of a catering licensee doing business within the  
14 liquor license jurisdiction of the local governing body as provided  
15 in subsection (5) of this section. Such tax may not exceed double  
16 the license fee to be paid under this section.

17 Sec. 9. Section 53-130, Revised Statutes Supplement,  
18 2002, is amended to read:

19 53-130. New licenses to manufacturers, wholesalers,  
20 railroads, airlines, boats, and nonbeverage users of alcoholic  
21 liquor may be issued by the commission upon (1) written application  
22 in duplicate filed in the manner and on such forms as the  
23 commission prescribes and in which the applicant for a beer  
24 wholesale license sets forth the sales territory in Nebraska in  
25 which it is authorized by a manufacturer or manufacturers to sell  
26 their brand or brands and the name of such brand or brands, (2)  
27 receipt of bond, (3) payment in advance of the state registration  
28 fee of ~~forty-five~~ ninety dollars and the license fee, and (4) such

1 notice and hearing as the commission fixes by its own order. A  
2 notice of such application shall be served upon the manufacturer or  
3 manufacturers listed in any application for a beer wholesale  
4 license and upon any existing wholesaler licensed to sell the brand  
5 or brands in the described sales territory. A license so issued  
6 may be renewed biennially without formal application upon payment  
7 of license and registration fees. The payment of such fees shall  
8 be an affirmative representation and certification by the licensee  
9 that all answers contained in an application, if submitted, would  
10 be the same in all material respects as the answers contained in  
11 the last previous application. The commission may at any time  
12 require a licensee to submit an application.

13 Sec. 10. Section 53-131, Revised Statutes Supplement,  
14 2002, is amended to read:

15 53-131. (1) Any person desiring to obtain a new license  
16 to sell alcoholic liquor at retail, a bottle club license, or a  
17 craft brewery license shall file with the commission:

18 (a) An application in triplicate original upon forms the  
19 commission prescribes;

20 (b) The license fee if under section 53-124 such fee is  
21 payable to the commission, which fee shall be returned to the  
22 applicant if the application is denied; and

23 (c) The state registration fee in the sum of ~~forty-five~~  
24 ninety dollars.

25 (2) The commission shall notify, by registered or  
26 certified mail, return receipt requested with postage prepaid, (a)  
27 the clerk of the city or village in which such license is sought,  
28 (b) if the license sought is a Class D-1 license, the clerk of the

1 city or incorporated village outside of whose corporate limits but  
2 within whose extraterritorial zoning jurisdiction the applicant is  
3 located, or (c) if the license sought is not a Class D-1 license  
4 and is not sought within a city or village, the county clerk of the  
5 county in which such license is sought, of the receipt of the  
6 application and shall enclose one copy of the application with the  
7 notice. No such license shall be issued or denied by the  
8 commission until the expiration of the time allowed for the receipt  
9 of a recommendation of denial or an objection requiring a hearing  
10 under subdivision (1)(a) or (b) of section 53-133. During the  
11 period of forty-five days after the date of receiving such  
12 application from the commission, the local governing body of such  
13 city, village, or county may make and submit to the commission  
14 recommendations relative to the granting or refusal to grant such  
15 license to the applicant.

16 Sec. 11. Section 53-132, Revised Statutes Supplement,  
17 2002, is amended to read:

18 53-132. (1) If no hearing is required pursuant to  
19 subdivision (1)(a) or (b) of section 53-133 and the commission has  
20 no objections pursuant to subdivision (1)(c) of such section, the  
21 commission may waive the forty-five-day objection period and, if  
22 not otherwise prohibited by law, cause a retail license, bottle  
23 club license, or craft brewery license to be signed by its  
24 chairperson, attested by its executive director over the seal of  
25 the commission, and issued in the manner provided in subsection (4)  
26 of this section as a matter of course.

27 (2) A retail license, bottle club license, or craft  
28 brewery license shall be issued to any qualified applicant if the

1 commission finds that (a) the applicant is fit, willing, and able  
2 to properly provide the service proposed within the city, village,  
3 or county where the premises described in the application are  
4 located, (b) the applicant can conform to all provisions and  
5 requirements of and rules and regulations adopted pursuant to the  
6 Nebraska Liquor Control Act, (c) the applicant has demonstrated  
7 that the type of management and control to be exercised over the  
8 premises described in the application will be sufficient to insure  
9 that the licensed business can conform to all provisions and  
10 requirements of and rules and regulations adopted pursuant to the  
11 act, and (d) the issuance of the license is or will be required by  
12 the present or future public convenience and necessity.

13 (3) In making its determination pursuant to subsection  
14 (2) of this section the commission shall consider:

15 (a) The recommendation of the local governing body;

16 (b) The existence of a citizens' protest made in  
17 accordance with section 53-133;

18 (c) The existing population of the city, village, or  
19 county and its projected growth;

20 (d) The nature of the neighborhood or community of the  
21 location of the proposed licensed premises;

22 (e) The existence or absence of other retail licenses,  
23 bottle club licenses, or craft brewery licenses with similar  
24 privileges within the neighborhood or community of the location of  
25 the proposed licensed premises;

26 (f) The existing motor vehicle and pedestrian traffic  
27 flow in the vicinity of the proposed licensed premises;

28 (g) The adequacy of existing law enforcement;

1 (h) Zoning restrictions;

2 (i) The sanitation or sanitary conditions on or about the  
3 proposed licensed premises; and

4 (j) Whether the type of business or activity proposed to  
5 be operated in conjunction with the proposed license is and will be  
6 consistent with the public interest.

7 (4) Retail licenses, bottle club licenses, or craft  
8 brewery licenses issued or renewed by the commission shall be  
9 mailed or delivered to the clerk of the city, village, or county  
10 who shall deliver the same to the licensee upon receipt from the  
11 licensee of proof of payment of (a) the license fee if by the terms  
12 of subdivision (5) of section 53-124 the fee is payable to the  
13 treasurer of such city, village, or county, (b) any fee for  
14 publication of notice of hearing before the local governing body  
15 upon the application for the license, (c) the fee for publication  
16 of notice of renewal as provided in section 53-135.01, and (d)  
17 biennial occupation taxes, if any, imposed by such city, village,  
18 or county. Notwithstanding any ordinance or charter power to the  
19 contrary, no city or village shall impose ~~an~~ a biennial occupation  
20 tax on the business of any person, firm, or corporation licensed  
21 under the act and doing business within the corporate limits of  
22 such city or village in any sum which exceeds two times the amount  
23 of the biennial license fee required to be paid under the act to  
24 obtain such license.

25 (5) Each license shall designate the name of the  
26 licensee, the place of business licensed, and the type of license  
27 issued.

28 Sec. 12. Section 53-135, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           53-135.    A retail or bottle club license issued by the  
3 commission and outstanding may be automatically renewed by the  
4 commission without formal application upon payment of the state  
5 registration fee and license fee if payable to the commission. The  
6 payment shall be an affirmative representation and certification by  
7 the licensee that all answers contained in an application, if  
8 submitted, would be the same in all material respects as the  
9 answers contained in the last previous application. The commission  
10 may at any time require a licensee to submit an application, and  
11 the commission shall at any time require a licensee to submit an  
12 application if requested in writing to do so by the local governing  
13 body.

14           If a licensee files an application form in triplicate  
15 original upon seeking renewal of his or her license, the  
16 application shall be processed as set forth in section 53-131.

17           Any licensed retail or bottle club premises located in an  
18 area which is annexed to any governmental subdivision shall file a  
19 formal application for a license, and while such application is  
20 pending, the licensee may continue all license privileges until the  
21 original license expires or is canceled or revoked. If such  
22 license expires within sixty days following the annexation date of  
23 such area, the license may be renewed by order of the commission  
24 for not more than ~~one year~~ two years.

25           Sec. 13. Section 53-135.01, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           53-135.01. The city, village, or county clerk shall  
28 cause to be published in a legal newspaper in or of general

1 circulation in such city, village, or county, one time between  
2 January 10 and January 30 of each year, individual notice of the  
3 right of automatic renewal of each retail liquor and beer license,  
4 except that notice of the right of automatic renewal of Class C  
5 licenses shall be published between the dates of July 10 and July  
6 30 of each year within such city, village, or county, in  
7 substantially the following form:

8 NOTICE OF RENEWAL

9 OF RETAIL LIQUOR LICENSE

10 Notice is hereby given pursuant to section 53-135.01 that  
11 a liquor license may be automatically renewed for ~~one year~~ two  
12 years from May 1, ~~19....~~ 20...., or November 1, ~~19....~~ 20....,  
13 for the following retail liquor licensee:

14 (Name of Licensee) (Address of licensed premises)

15 Notice is hereby given that written protests to the  
16 issuance of automatic renewal of license may be filed by any  
17 resident of the city (village or county) on or before February 10,  
18 ~~19....~~ 20...., or August 10, ~~19....~~ 20...., in the office of the  
19 city (village or county) clerk and that in the event protests are  
20 filed by three or more such persons, hearing will be had to  
21 determine whether continuation of the license should be allowed.

22 (Name)

23 City (village or county) Clerk

24 Upon the conclusion of any hearing required by this  
25 section, the local governing body may request a licensee to submit  
26 an application as provided in section 53-135.

27 Sec. 14. Section 53-138.01, Revised Statutes Supplement,  
28 2002, is amended to read:



1           53-138.01. The State Treasurer shall credit ~~forty~~ eighty  
2 dollars of each state registration fee to the General Fund and the  
3 remaining ~~five~~ ten dollars to the Nebraska Liquor Control  
4 Commission Rule and Regulation Cash Fund to be used for providing  
5 licensees with materials pursuant to section 53-117.05. All retail  
6 license fees received by the city or village treasurer, as the case  
7 may be, shall inure to the school fund of the district lying wholly  
8 or partially within the corporate limits of such city or village.  
9 The State Treasurer shall credit all license fees received by the  
10 commission for licenses issued pertaining to alcoholic liquor,  
11 including beer, to the temporary school fund to be used for the  
12 support of the common schools as provided in Article VII, section  
13 5, of the Constitution of Nebraska. All retail license fees  
14 received by the county treasurer, as provided in section 53-124,  
15 shall be credited to the school fund of the county.

16           Sec. 15. Section 53-149, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           53-149. A license shall be purely a personal privilege,  
19 good for not to exceed ~~one year~~ two years after issuance unless  
20 sooner revoked as provided in the Nebraska Liquor Control Act, and  
21 shall not constitute property, ~~nor shall it~~ be subject to  
22 attachment, garnishment, or execution, ~~nor shall it~~ be alienable or  
23 transferable, voluntarily or involuntarily, or be subject to being  
24 encumbered or hypothecated. Such license shall not descend by the  
25 laws of testate or intestate devolution, but it shall cease upon  
26 the death of the licensee, except that (1) executors or  
27 administrators of the estate of any deceased licensee, when such  
28 estate consists in part of alcoholic liquor, or a partnership or

1 limited liability company upon the death of one or more of the  
2 partners or members, may continue the business of the sale or  
3 manufacture under order of the appropriate court and may exercise  
4 the privileges of the deceased or deceased partner or member after  
5 the death of such decedent until the expiration of such license,  
6 but if such license would have expired within two months following  
7 the death of the licensee, the license may be renewed by the  
8 administrators or executors with the approval of the appropriate  
9 court for a period not to exceed ~~one additional year~~ two additional  
10 years; or (2) when a license is issued to a husband and wife, as  
11 colicensees with rights of survivorship, upon the death of one  
12 spouse the survivor may exercise all rights and privileges under  
13 such license in his or her own name. The trustee of any insolvent  
14 or bankrupt licensee, when such estate consists in part of  
15 alcoholic liquor, may continue the business of the sale or  
16 manufacture under order of the appropriate court and may exercise  
17 the privileges of the insolvent or bankrupt licensee until the  
18 expiration of such license.

19           Sec. 16. This act becomes operative on August 1, 2003.

20           Sec. 17. Original sections 53-119.01, 53-121, 53-123.05,  
21 53-123.14, 53-135, 53-135.01, and 53-149, Reissue Revised Statutes  
22 of Nebraska, and sections 53-123.12, 53-124, 53-124.11, 53-124.12,  
23 53-130, 53-131, 53-132, and 53-138.01, Revised Statutes Supplement,  
24 2002, are repealed.

25           Sec. 18. Since an emergency exists, this act takes  
26 effect when passed and approved according to law.